IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.16877 of 2004

Between:

Chittoori Audamma,

W/o. Venkata Subba Rao,
R/o 25/II/1427, N.G.O. Colony,

Nellore, Nellore District.

..... PETITIONER

AND

1 The Commissioner,

Prohibition and Excise Dept.,

Govt. of A.P. Hyderabad.

2 The Dy. Commissioner,

Prohibition & Excise,

Guntur Region, Guntur.

3 The Superintendent,

Prohibition & Excise,

Tekke Mitta, Nellore,

Nellore District

4 The Commissioner,

Nellore Municipality,

Nellore District.

5 The Director, Town & Country Planning,

Govt. of A.P. No. 640,

A.C. Guards, Hyderabad.

6 The Regional Director,

Town & Country Planning,

Nellore.

7 D. Sekharaiah,

S/o age not known,

M/s. V.S. Bar & Restaurant,
Plot No. 342, Bakthavatsala Nagar,

Ward No. 20, N.G.Os. Colony, Nellore,
Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the Municipal Authorities in not taking any action for the illegal construction made over in Plot No. 342, Batta Vatsala Nagar, Ward No. 20, N.G.Os. Colony, Nellore and using the premises for commercial purpose, though the permission was granted for Residential purpose and equally the action of the Prohibition & Excise authorities in seeking to grant license in Form IL-17 in the name and style of M/s. V.S. Bar and Restaurant for the premises in Plot
No. 342, Bakta Vatsala Nagar, Ward No. 20, N.G.Os. Colony, Nellore as being

arbitrary, illegal and unconstitutional and contrary to Rule 29 of A.P. Indian Liquor and Foreign Liquor Rules, 1970 and issue a consequential direction directing the Respondents not to grant any Licence for establishment of a Bar and Restaurant in the Residential Area.

Counsel for the Petitioner : Sri P.VENKAT RAO

Counsel for Respondents 1,2 & 3: Govt.Pleader for Prohibition and Excise

Counsel for Respondents 4,5 & 6 : Sri D.Srinivas.

The Court made the following :

ORDER: (Per Hon'ble the Chief Justice)

This writ petition is premature since even as per the averments made in the petition, permission has not so far been granted for opening of bar and restaurant in the residential area. Only when some positive action is taken, the same can be challenged. Otherwise, there is no presumption that authorities will act contrary to law.

Writ petition is dismissed with liberty reserved to the petitioner to question the action of official respondents as and when such permission is granted.

_____

DEVINDER GUPTA, C.J.

_____

C.V.RAMULU, J

29-09-2004

bsc

To

1 The Commissioner,

Prohibition and Excise Dept.,

Govt. of A.P. Hyderabad.

2 The Dy. Commissioner,

Prohibition & Excise,

Guntur Region, Guntur.

3 The Superintendent,

Prohibition & Excise,

Tekke Mitta, Nellore,

Nellore District

4 The Commissioner,

Nellore Municipality,

Nellore District.

5 The Director, Town & Country Planning,

Govt. of A.P. No. 640,

A.C. Guards, Hyderabad.

6 The Regional Director,

Town & Country Planning,

Nellore.

7. 2CCs to Govt. Pleader for Prohibition & Excise, High Court

buildings, Hyderabad (OUT)

8. 2 C.D. copies